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Paper No. 4

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In re Application of
Routhenstein, et al.
Application No. 09/960,714
Filed: September 21, 2001
Docket No.: JSF35.017
For: METHOD FOR GENERATING CUSTOMER:
SECURE CARD NUMBERS SUBJECT TO USE
RESTRICTIONS BY AN ELECTRONIC CARD

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

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JUL 3 0 2002

OFFICE OF PETITIONS

This is in response to the petition under 37 CFR 1.47(a), filed May 7, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed September 21, 2001 without an executed oath or declaration and naming Larry Routhenstein, Roy L. Anderson, William R. Bryant, and Jacob Y. Wong as joint inventors. Accordingly, on October 29, 2001, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 USC 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition lacks requirement (1) stated above. Petitioner has failed to establish that the inventor cannot be reached or refused to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, and oath or declaration).

Petitioner alleges as the non-signing inventor verbally refused to sign the declaration. Petitioner is reminded that before a refusal to sign an oath or declaration can be alleged, it must be

demonstrated that a *bona fide* effort has been made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney. See, MPEP 409.03(d).

Any renewed petition should be accompanied by evidence to sufficiently establish that the non-signing inventor either cannot be located or that the non-signing inventor was sent a complete copy of the application papers and thereafter refused to execute the declaration. Petitioner may wish to provide the Office copies of letters sent to the inventor indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor receives the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
 Box DAC
 Washington, DC 20231

By FAX: (703) 308-6916
 Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
 2201 S. Clark Place
 Arlington, VA

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

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